

Internal Revenue Service

Department of the Treasury

P.O. Box 2508
Cincinnati, OH 45201

District
Director

Person to Contact:

Telephone Number:

Refer Reply to:
EP/EO

Date:

NOV 30 1984

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(7) of the Internal Revenue Code of 1954 and its applicable Income Tax Regulations.

Your application discloses that you were incorporated [REDACTED] to organize, establish, maintain, acquire and operate a golf and/or country club for the social welfare, recreation, association and physical health of its members, including acquiring the ownership of or interest in or use of a golf course or courses, tennis courts, swimming pool and other recreational facilities by purchase, lease, mortgage or otherwise; and to provide food, beverages and alcoholic beverages to its members and their guests, and to do any and all things necessary or incidental thereto to accomplish the same.

According to your application, on [REDACTED], you entered into an agreement with [REDACTED] to acquire [REDACTED] of the [REDACTED] stock. As part of the transaction, the Associates assumed mortgages held by [REDACTED]. Mortgage payments are made from club-operating revenues.

Under the agreement, [REDACTED] will operate the country club. When the Associates pays [REDACTED] of the purchase price, the Associates assumes full operation of the facility. During the interim, the operating board consists of the members of both parties.

The country club facility consists of two golf courses, the North course for members only and the South course for the general public. The facility includes a bar, dining rooms, pro shops, swimming pool and two tennis courts.

11-14-84
11-29-84

Based on financial information for [REDACTED], revenue from members and non-members can be calculated as follows:

	Total Income	Non-Member Income	
<u>Golf</u>			
North Course			
Dues	[REDACTED]	[REDACTED]	
Green Fees	[REDACTED]	[REDACTED]	[REDACTED]%
Cart Rental	[REDACTED]	[REDACTED]	[REDACTED]%
Locker Rental	[REDACTED]	[REDACTED]	
Other Misc.	[REDACTED]	[REDACTED]	
Minimum Charge	[REDACTED]	[REDACTED]	
South Course			
Green Fees	[REDACTED]	[REDACTED]	
Dues	[REDACTED]	[REDACTED]	
Cart Rental	[REDACTED]	[REDACTED]	[REDACTED]%
Locker Rental	[REDACTED]	[REDACTED]	
South Course Concessions	[REDACTED]	[REDACTED]	[REDACTED]
Bar			
Dining Room	[REDACTED]	[REDACTED]	[REDACTED]%
Cork Room	[REDACTED]	[REDACTED]	
Service Charge	[REDACTED]	[REDACTED]	
Dining Room			
Dining Room	[REDACTED]	[REDACTED]	[REDACTED]%
Cork Room	[REDACTED]	[REDACTED]	
Service Charge	[REDACTED]	[REDACTED]	

Non member income of \$ [REDACTED] comprises [REDACTED] percent of the total revenue of \$ [REDACTED].

Section 501(c)(7) of the Code provides for the exemption from Federal income tax of clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7)-1(a) of the Regulations states that the exemption provided by section 501(a) of the Code for an organization described in section 501(c)(7) of the Code applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if any part of its net earnings inure to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Section 1.501(c)(7)-1(b) of the Regulations states that a club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, and is not exempt under section 501(a) of the Code. Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption.

Section 501(c)(7) of the Code requires that substantially all of a social club's activities be social or recreational activities for members. Public Law 94-568, 1976-2 C.B. 596 provides that a social club may receive up to 35 percent of its gross receipts, including investment income from sources outside its membership without losing exemption. However, within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of a social club's facilities or services by the general public. This means that an exempt social club may receive up to 35 percent of its gross receipts from a combination of investment income and receipts from non-members so long as the latter do not represent more than 15 percent of the total receipts.

A portion of the facilities of the club which you are purchasing is open to the general public. Your non-member income from public use exceeds the 15% limitation established by Public Law 94-568.

Based on the available information, it is our opinion that you do not qualify for exemption from Federal income tax under the provisions of section 501(c)(7) of the Code because of excess non-member income.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120.

[REDACTED]

If you are in agreement with our proposed denial, please sign and ~~return~~ one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892 (Rev. 7-83), "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You must request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.—

Sincerely Yours,

[REDACTED]
District Director

Enclosures: 2